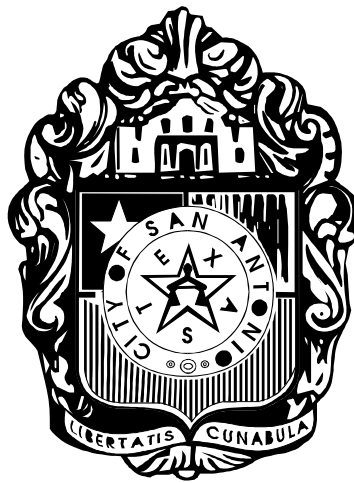


City of San Antonio, Texas



2004 Tax Increment Financing (TIF) and Reinvestment Zone Guidelines and Criteria

Effective through January 31, 2006

Neighborhood Action Department
(210) 207-7881

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CITY OF SAN ANTONIO GUIDELINES AND CRITERIA FOR TAX INCREMENT FINANCING (TIF) AND REINVESTMENT ZONES

Policy Statement:

The City of San Antonio is dedicated to the revitalization of inner-city neighborhoods and commercial districts, particularly in those areas located inside Loop 410 and south of Highway 90, by using a tiered system of incentive tools, such as Tax Increment Financing (TIF). A TIF project should act as an economic stimulus to the surrounding areas. By leveraging private investment for certain types of development within a targeted area, TIF can be a tool used to assist in financing needed public improvements and enhancing infrastructure.

SECTION I. INTRODUCTION AND PROGRAM OVERVIEW

- A. Local Authority.** The City of San Antonio (City) adopted these Guidelines and Criteria for Tax Increment Financing (TIF) and Reinvestment Zones (Guidelines) by Ordinance No. 98663 on January 8, 2004. The Guidelines were established by the City in 1998 by Ordinance No. 88196, amended by Ordinance No. 92552 in 2000, and Ordinance No. 92710 in 2002. The Guidelines serve as policy direction to City staff and interested parties regarding the Application for Redevelopment specifically related to Tax Increment Financing (TIF), which supports certain types of development in targeted areas of the city. Reinvestment Zones may be designated either through (1) a City-initiated project following a Request for Proposals and the submission of an Application for Redevelopment to the City pursuant to these Guidelines, or (2) the independent submission of an Application for Redevelopment to the City pursuant to these Guidelines in conjunction with the petition of a property owner as detailed in Section 311.005 (a)(5) of the Texas Tax Code. All TIRZ are governed by the Guidelines in effect at the time of the TIRZ creation by City Council.
- B. Statutory Authority.** Under authority of Chapter 311 of the Texas Tax Code, known as and hereinafter referred to as the TIF Act (Refer to Section IV.), only municipalities are permitted to establish Reinvestment Zones for the purpose of TIF.
- C. Goals and Objectives of City.** The City may use TIF, along with other incentive tools, to finance needed public improvements and enhance infrastructure within a targeted area. It is the intention of the City to use TIF, as one of many incentive tools, for the primary purpose of encouraging inner-city revitalization within Loop 410 and those areas south of Highway 90 by leveraging private investment for certain types of development activities that support the policies of the City's Master Plan.
- D. Eligible Development.** The following may be eligible for consideration for the use of TIF:

- **Residential Development:** New construction or rehabilitation of single family and/or multi-family housing
- **Business parks for Targeted Industries:** New construction or redevelopment
- **Office development:** New construction or redevelopment
- **Retail/Commercial development:** New construction or redevelopment
- **Mixed-use development:** New construction or redevelopment

All projects must utilize one of the nine approved Use Patterns or Special Districts outlined in Section VI.C.

- E. Development over the Edwards Aquifer Recharge Zone.** No applications will be accepted for a TIF where all or part of the proposed project falls over the Edwards Aquifer Recharge Zone.
- F. Development over the Edwards Aquifer Contributing Zone and the Contributing within the Transition Zone.** TIF Applications where all or part of the proposed project falls over the Contributing Zone or the Contributing within the Transition Zone will be considered on a case-by-case basis. For projects located over the Contributing Zone or the Contributing within the Transition Zone, the City will not accept fees in lieu of parks or drainage unless recommended by City Staff, a maximum of 30% impervious cover is required and a Supermajority of City Council (8) votes is required for designation of the zone. Furthermore, residential projects may only utilize the Conservation Subdivision Use Pattern, while commercial and mixed-use projects must utilize one of the nine non-conventional Use Patterns or Special Districts.
- G. Voluntary Annexation.** Projects requiring voluntary annexation will be considered for TIF. Applicant must submit to the City Clerk a completed TIF Application with a copy of the Petition for Annexation. The original Petition for Annexation must be submitted to the City Clerk. The TIF Unit will work with the Planning Department to determine feasibility of the voluntary annexation. The proposal must communicate and demonstrate how the project achieves the objectives in the City's Master Plan and demonstrate how City services can be financed and supported through the TIRZ and other potential revenue sources. **Project sites must be annexed prior to the designation of the Reinvestment Zone.**
- H. Use of TIF.** Once a Reinvestment Zone has been established in accordance with the TIF Act and these Guidelines, incremental real property taxes resulting from new construction, public improvements and redevelopment efforts will accrue to the various taxing entities. Participating taxing entities may deposit all, a predetermined portion, or none of the incremental property taxes in a designated TIF Fund for the purpose of financing the planning, design, construction or acquisition of public improvements in the Reinvestment Zone.
- I. Use of TIF Proceeds.** Incremental real property taxes generated in a designated Reinvestment Zone may be used only to pay for certain types of Eligible Project Costs, public works, and/or public improvements as stated in Section VII of these Guidelines. **TIF proceeds cannot be used to support private purposes. TIF Proceeds may not be used as the basis of a contingency fee contract for professional services to be provided to a TIF Project. All contracts for professional services are subject to staff review. Professional**

services are defined in Section 311.002(1)(D) of the TIF Act to include architectural, planning, engineering, and legal advice and services. Lobbying services shall not be an eligible project cost reimbursable with TIF Proceeds under these Guidelines.

- J. Demonstration of Community Revitalization Impact.** It is the intent of the City to use TIF for the purpose of supporting community revitalization and redevelopment projects in targeted areas. As part of the Application for Redevelopment, an Applicant must describe how the planned investment will contribute to revitalization activities in the parcel(s) in question and/or the surrounding area of the community. The Applicant must also indicate how the input of nearby neighborhood residents, businesses, and/or schools has been solicited in the project planning process. In all proposed TIF projects, the Applicant(s) must make available an independent market feasibility study in order to demonstrate the demand, viability, and capacity for the project (refer to Section VI, I). Moreover, the independent market feasibility study should validate absorption rates, estimated values, adjacent property lease space and reference neighborhood plans already established. All proposals must communicate and demonstrate how the project achieves objectives of the City's Master Plan, Southside Initiative and/or the CRAG (refer to Appendix G, *Helpful Links*).
- K. Demonstration of Need for Public Assistance.** The TIF Act provides that the City Council, by ordinance, may designate a contiguous geographic area in its jurisdiction to be a Reinvestment Zone to promote development or redevelopment of the area if the City Council determines that such development or redevelopment would not occur solely through private investment in the reasonably foreseeable future. The City may not designate an area as a Reinvestment Zone solely for the purpose of encouraging future development in that area. Please refer to examples of indicators for blight, underdeveloped, unproductive, and/or economically distressed areas in Appendix G.
- L. Participation by Other Taxing Entities.** Under Section 311.013 of the TIF Act, other local taxing entities retain the right to determine the amount of the tax increment that each will retain, OR each may decide to retain all of the tax increment. Under these Guidelines, the City will enter into a written Interlocal Agreement with all participating taxing entities to specify: (1) the conditions for payment of the tax increment into a TIF Fund, (2) the portion of tax increment to be paid by each entity into the TIF Fund, and (3) the term of the Agreement.
- M. Term of Reinvestment Zone.** As prescribed in Section 311.017 of the TIF Act, Reinvestment Zones shall terminate on the *earlier* of:
- 1) the termination date designated in the ordinance(s) creating and/or amending the zone; or
 - 2) the date on which all project costs and interest have been paid in full.

In addition, the duration of a Reinvestment Zone should not exceed 25 years from the creation date of the TIRZ. The City may elect to terminate a TIRZ if 50% of the housing and/or commercial construction projected for years 1, 2, and 3 from date the TIRZ is created is not complete. Only housing and/or commercial components count towards completion of the construction schedule, infrastructure construction does not. Furthermore, any default of the terms contained in the Interlocal and/or Development Agreements that is not cured within

the timeframe contained in the Interlocal and/or Development Agreements may also result in Zone Termination.

- N. **Before designating a Reinvestment Zone**, the City will require that each Developer(s) agree to enter into a Development Agreement with the City and to negotiate requirements based on these Guidelines and staff recommendations. Approval by the TIRZ Board of Directors and the City Council is required for the Final Project and Financing Plans and Development and Interlocal Agreements.

O. **Definitions.** Some terms used in these Guidelines are defined in Appendix A.

SECTION II. APPLICATION PROCESS AND FEES

APPLICATION PROCESS:

Applications for Redevelopment must be submitted to the City Clerk by **June 30** for a Reinvestment Zone to be established in the same calendar year. Applications for Redevelopment may be submitted to the City after **June 30**, however, a Reinvestment Zone may not be considered for establishment until the following calendar year. Depending on the exact nature and complexity of a project, the estimated timeframe from application to designation of a Reinvestment Zone is **at least** four (4) months.

All Applications for Redevelopment and applicable fee(s) should be delivered to the:

**City Clerk's Office
City of San Antonio
100 Military Plaza – 2nd Floor
San Antonio, TX 78205**

- A. **Application Form.** Applicants desiring to use TIF along with other incentives to support eligible types of development in targeted areas must fully complete an "Application for Redevelopment" and remit twenty-five (25) complete copies and the required Application fee, as set forth in Subsection C below.
- B. **Pre-Application Meetings.** An Applicant or Developer may request a meeting(s) with the Neighborhood Action Department TIF Unit prior to submitting a TIF Application in order to provide the Applicant or Developer an overview of the TIF requirements and the development processes. The meeting(s) will cost the Applicant or Developer \$75.00 per hour and must be scheduled through the Neighborhood Action Department TIF Unit.
- C. **Application Fee.** A non-refundable Application fee of \$3,000.00 must accompany all Applications for Redevelopment for TIF use. The Application fee should be in the form of a check or money order and made payable to the "City of San Antonio." The Application fee is to support administrative costs, including: initial review for completeness, internal processes and presentations, and preparation of Resolution of Intent for consideration by the City Council.
- D. **Completeness Review.** City staff will review the Application within 10 working days (from the day the Neighborhood Action Department receives the application) to ensure

completeness. The Applicant will have 14 working days to supply any information that is omitted without having to resubmit a new Application. If the Applicant is non-responsive and fails to submit the omitted information, the Application will be considered incomplete, the fee will NOT be refunded, and no further action on the Application will occur.

- E. Review for Eligibility.** The TIF Unit will review the Application for compliance with Statutory Criteria (Section IV.), Need for Public Assistance (Section I. K.), and Community Revitalization Impact (Section I. J.), in preparation for a recommendation at Resolution of Intent.

F. Processing.

Upon passage of a Resolution of Intent by the San Antonio City Council, the Applicant / Developer must remit a Processing Fee, in the form of a check or money order, in the amount of \$31,000.00 payable to the “City of San Antonio” **no later than 10 days after passage of said Resolution**. The fee is reimbursable with TIF proceeds. The fee supports administrative requirements, scrub team coordination, participating taxing entity presentations, designation of zone, zone plans and financial and legal document preparations and negotiations.

Upon the passage of the Resolution of Intent, a full financial and programmatic review of the proposed project will occur. This review will be conducted by City staff including at a minimum the items listed in Section III., below. This review could result in an entirely different finance plan than initially proposed in the Application.

- G. Public Information Act.** All Applicants are advised that all Applications shall be open for public inspection and that the information contained in the Applications shall be available to the public upon request under the Texas Public Information Act. Therefore, if an Applicant includes as part of its Application any trade secrets or confidential information, as recognized by law, please **clearly** mark such information as confidential. An example of said confidential information includes, but is not limited to, financial information or any other information that may place the Applicant at a competitive disadvantage should the information be disclosed to a competitor or the public.

- H. Other taxing entities.** As a part of the Application submission and before the expressed intent by the City Council to create a Reinvestment Zone, an Applicant / Developer must have secured commitments from other taxing entities to participate in proposed TIF project, specific to term and participation percentage, in the form of an action taken by the respective taxing entity (i.e. Resolution). City staff will forward a preliminary Reinvestment Zone Project and Financing Plan to the other impacted taxing entities upon designation of the zone by City Council. However, Applicants / Developers should note that each taxing entity could adopt separate guidelines and/or establish independent project review processes for Reinvestment Zones. In order to expedite the other agencies’ review processes, Applicants are required to independently contact the other taxing entities impacted by the proposed TIF project.

SECTION III. EVALUATION CRITERIA

Each Application for Redevelopment submitted will be evaluated by an interdepartmental team to analyze the viability of a proposed project. The following basic evaluation criteria will be

used to initiate a thorough review of Applications seeking TIF funding. Since every project is unique, additional evaluation criteria may become necessary and will be determined on a case-by-case basis.

- a) Demonstrate financial wherewithal to meet project costs and complete project (i.e. the most current two years of financial statements, complete Sources and Uses budget, and/or Letters of Credit from Bank)
- b) Submit a completed market feasibility study by an outside consultant approved by the City for larger scale projects (500+ single-family units). In smaller scale projects (less than 500 single-family units), the Applicant may use the 1999/2000 market study conducted by the San Antonio Housing Trust if project is located within this study's target area, otherwise, a separate market study will be required
- c) Submit a cost benefit analysis (See Section VIII, A– Additional Guidelines)
- d) Identify gap in financing for project
- e) Illustrate proposed financial structure of project, and delineate in detail the developer equity contribution into project
- f) Identify proposed security, collateralization, or credit enhancement
- g) Demonstrate commitment to the quality of development and the project area by submitting examples of housing and commercial products, detailing how the project impacts the area in a positive manner and how the applicant involved the residents of the area including references to neighborhood or community plans (refer to Appendix G)
- h) Detail how project links with the following: other area public improvement projects, and Neighborhood Commercial Revitalization program activities
- i) Detail how project plan addresses any area Code enforcement issues
- j) Submit detailed pro formas
- k) Submit a Phase I Environmental Site Assessment of the proposed area not older than 2 years in accordance with guidelines set forth in the American Society for Testing and Materials (ASTM), Standard E1527-00, Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process. Contingent upon the findings of the Phase I ESA, City may require completion and submission of a Phase II Subsurface Investigation and environmental remediation, if necessary, in accordance with federal, state and local requirements. The City will also require Applicant to assess and submit documentation regarding potential environmental impacts, such as water quality, endangered species, and cultural resources
- l) Submit a preliminary site plan of any proposed parks to include layout of any proposed public improvements
- m) Include the following public improvement information: scope of the proposed project, project location map, project layout map, pavement section, detailed cost estimate for all public improvements, and roadway construction cost per foot for each section width (The cost shall include pavement and curbs. If sidewalks and driveways are constructed at the same time with the street construction, the cost for these items shall be included with the cost of roadways.)
- n) Full description and a comprehensive site plan, project proximity to schools, libraries, parks and health facilities, project impact to area traffic or a detailed traffic plan, project Plan for underground utility conversion
- o) Demonstrate previous experience developing similar scale and type of project
- p) Submit a build out schedule indicating timing of public improvements (i.e. commencement and completion dates)

- q) Provide evidence of secured commitments from other taxing entities to participate in proposed TIF project, specific to term and participation percentage, in the form of a letter of support from the respective elected or board official(s) of the taxing entity
- r) Agree to pay for reasonable professional fees retained by the City related to the project.
- s) Complete and submit the City's Ethics Disclosure form
- t) All proposals must communicate and demonstrate how the project achieves objectives in the City's Master Plan
- u) For projects located in Primary Target Area, proposals must demonstrate how project achieves the objectives of the CRAG Report and the Southside Initiative Plan
- v) All projects will conform to the City's landscape, tree preservation and drainage ordinances
- w) Projects located in Non-Target Areas and voluntary annexations must conform to water quality ordinances, any vested or grand fathered rights may be impacted by this Program requirement.
- x) Compliance with the City's adopted Universal Design Policy as it relates to the construction of housing units
- y) Development included within the TIF boundaries must comply with all provisions of the current Unified Development Code
- z) New construction should be compatible with the adjoining areas as defined in Section 35-343 (m) of the Unified Development Code

SECTION IV. CRITERIA FOR DESIGNATION OF A REINVESTMENT ZONE

The City must designate, or have already designated, an area as a Reinvestment Zone for TIF to occur. As provided under Section 311.005 of the TIF Act, to be designated as a Reinvestment Zone, an area must:

- A. Substantially arrest or impair the sound growth of the municipality creating the zone, retard the provision of housing accommodations, or constitute an economic or social liability and be a menace to the public health, safety, morals, or welfare in its present condition and use because of the presence of:
 - 1) a substantial number of substandard, slum, deteriorated, or deteriorating structures;
 - 2) the predominance of defective or inadequate sidewalk and street layout;
 - 3) faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
 - 4) unsanitary or unsafe conditions;
 - 5) the deterioration of site or other improvements;
 - 6) tax or special assessment delinquency exceeding the fair value of the land;
 - 7) defective or unusual conditions of title; or
 - 8) conditions that endanger life or property by fire or other causes; OR
- B. Be predominantly open and, because of obsolete platting, deterioration of structures or site improvements, or other factors, substantially impair or arrest the sound growth of the municipality; OR
- C. Be in a federally assisted new community located in the municipality or in an area immediately adjacent to a federally assisted new community ("federally assisted new community" means an area that has received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act, if a portion of the federally assisted

area has received grants under Section 107 (a)(1) of the Housing and Community Development Act of 1974); OR

- D. Be an area described in a petition requesting that the area be designated as a Reinvestment Zone, if the petition is submitted to the governing body of the municipality by the owners of property constituting at least 50 percent of the appraised value of the property in the area according to the most recent certified appraisal roll for Bexar County.
- E. Be an area designated as an Enterprise Zone under Chapter 2303 of the Government Code, or as a Defense Economic Readjustment Zone under Chapter 2310.

SECTION V. STATUTORY PROCESS AND RESTRICTIONS ON COMPOSITION OF REINVESTMENT ZONES

A. Statutory Process. The TIF Act (Section 311.003) specifies the procedures for designation of an Reinvestment Zone and participation by other taxing entities. At a minimum, the following steps will be taken for consideration of the use of TIF funds:

- 1) Application and Application fees submitted to City
- 2) Completeness Review conducted by City TIF Unit to verify submission of all items stated under Section III
- 3) Application Review conducted by TIF Unit to ensure project meets Statutory Criteria, Demonstrates Need for Public Assistance and Community Revitalization Impact
- 4) Resolution of Intent approved by the City Council
- 5) Full review conducted by TIF Unit and Scrub Team
- 6) Secured commitments from other taxing entities in the form of an action taken by the respective taxing entity (i.e. Resolution) to participate in proposed TIF project
- 7) Written notices of City's intent to establish a Reinvestment Zone must be forwarded to other taxing entities along with preliminary project and financing plan
- 8) Not later than the 15th day after the date the City notifies other taxing entities of intent to establish a Reinvestment Zone, each taxing entity that levies real property taxes in proposed Reinvestment Zone shall designate a representative to meet with the City staff and shall notify the City
- 9) preparation of Preliminary Project and Financing Plan
- 10) Statutory presentations to affected taxing entities on Project and Financing Plan, with written notices of presentations to all affected taxing entities
- 11) Informal discussions with other taxing entities
- 12) Formal action by other taxing entities detailing intent to participate in TIF Reinvestment Zone
- 13) No later than seven (7) days prior to public hearing date, a notice of the hearing must be published in a local newspaper having general circulation
- 14) Public hearing regarding creation of a Reinvestment Zone
- 15) Following the public hearing, City staff may recommend to create Reinvestment Zone and appoint Reinvestment Zone Board of Directors
- 16) Reinvestment Zone Board reviews and adopts by-laws for Board administration.
- 17) Reinvestment Zone Board prepares and adopts Final Reinvestment Zone Project and Financing Plan

- 18) Final Reinvestment Zone Project and Financing plans are forwarded to affected taxing entities
- 19) City Council consideration of Final Reinvestment Zone Project and Financing Plan

Depending on the exact nature and complexity of a project, the estimated timeframe to start and complete the TIRZ designation process is at least four (4) months

- B. Size Limitations.** Pursuant to Section 311.006 of the TIF Act, the City is not permitted to create a Reinvestment Zone or change the boundaries of an existing Reinvestment Zone if the total appraised value of taxable real property in the proposed zone and in existing Reinvestment Zones exceeds:
- 1) 15 percent of the total appraised value of taxable real property in the City and industrial districts created by the City;
 - 2) 15 percent of the total appraised value of taxable real property of Bexar County; OR
 - 3) 15 percent of the total appraised value of taxable real property of the school district that levies taxes in the proposed Reinvestment Zone.
- C. Use Limitation.** Section 311.006 of the TIF Act prohibits the City from creating a Reinvestment Zone or changing the boundaries of an existing Reinvestment Zone, if more than 10 percent of the property in the proposed zone (or modified zone), excluding publicly-owned property, is used for residential purposes, specifically for houses having fewer than five living units.
- D. Exception to Limitations.** The above use limitation does not apply if a Reinvestment Zone is designated following submission of a petition.

SECTION VI. PROJECT ELIGIBILITY FOR REINVESTMENT ZONES

- A. Targeted Areas for TIF Use.** It is the intent of the City to use TIF, along with other incentives, for the primary purpose of encouraging community revitalization primarily within the inner-city, within Loop 410 and areas south of U.S. Highway 90 by leveraging private investment for certain types of development. The City is establishing the process of City-initiated TIF projects. One option is to have the City solicit proposals for assistance with development in a defined/targeted area. The respondents would receive the incentives available through the TIF program and potentially other City incentive programs. The City is exploring other options for City-initiated TIF Projects.
- B. Project Location.** Projects located over the Edwards Aquifer Recharge Zone will not be considered for TIF. The following are the target areas with the City participation levels for projects located within the respective areas.
- **Primary Target Areas (Highest Priority Area):** City may participate up to 100% and for a term of up to 25 years for projects located within the CRAG, Neighborhood Commercial Revitalization (NCR) Areas, Empowerment Zone, Empowerment Zone Developable Sites, and the Southside Initiative. All projects must utilize one of the nine non-conventional Use Patterns or Special Districts outlined below in Subsection C. Projects must provide a minimum of 30% market rate housing (except for senior housing). There are no limits to the number of TIRZ that may be designated annually.

- **Secondary Target Areas:** City may participate up to 90% and up to a term of 20 years for projects located inside Loop 410 and outside Loop 410, but south of Highway 90. All projects must utilize one of the nine non-conventional Use Patterns or Special Districts outlined in Subsection C. Projects must provide a minimum of 30% market rate housing (except for senior housing). There are no limits to the number of TIRZ that may be designated annually.
- **Non-Target Areas:** City may participate up to 65% and up to a term of 20 years for all areas outside of the Target Areas that are in the current City limits. Residential projects may only utilize the Conservation Subdivision Use Pattern, while commercial and mixed-use projects must utilize one of the nine non-conventional Use Patterns or Special Districts. Projects must provide a minimum of 30% affordable housing with inclusionary zoning (prices not exceeding \$89,000). A maximum (combined total) of six (6) TIRZ may be designated annually in the Non-Target and Voluntary Annexation areas. For projects located over the Contributing Zone or the Contributing within the Transition Zone: the City will not accept fees in lieu of parks or drainage unless recommended by Staff, a maximum of 30% impervious cover is required and a Supermajority of City Council (8) votes is required for designation of a TIRZ.
- **Voluntary Annexation:** City may participate up to 75% and up to a term of 15 years for all projects that are annexed through voluntary annexation. Residential projects may only utilize the Conservation Subdivision Use Pattern, while the commercial and mixed-use projects must utilize one of the nine non-conventional Use Patterns or Special Districts. The proposal must communicate and demonstrate how the project achieves the objectives in the City's Master Plan and demonstrate how City services can be financed and supported through the TIRZ and potentially other revenue sources (i.e. public improvement districts) to support these services. Projects must provide a minimum of 30% affordable housing with inclusionary zoning (prices not exceeding \$89,000). A maximum (combined total) of six (6) TIRZ may be designated annually in the Non-Target and Voluntary Annexation areas. For projects located over the Contributing Zone: the City will not accept fees in lieu of parks or drainage unless recommended by Staff, a maximum of 30% impervious cover is required and a Supermajority of City Council (8) votes is required for designation of a TIRZ.

C. Urban Design Criteria. All TIF projects must utilize one of the following nine non-conventional Use Patterns or Special Districts:

- Infill Development Zone (in CRAG only)
- Traditional Neighborhood Development Use Pattern
- Transit Oriented Development Use Pattern
- Commercial Center Use Pattern
- Office or Institutional Campus Use Pattern
- Conservation Subdivision Use Pattern
- Commercial Retrofit Use Pattern
- Urban Development Flex District
- Rural Development Flex District

For more information on Use Patterns and Special Districts, please refer to Appendix G, *Helpful links*.

The City has determined that all homes in ZONE shall be constructed on permanent foundations using materials and uniform building industry standards of the day and in compliance with the then applicable City building ordinances and zoning requirements. No manufactured homes, as defined in the City of San Antonio Unified Development Code, and as amended, may be moved on any lot in ZONE. No HUD Code manufactured homes shall be placed on any lot in ZONE. This prohibition specifically includes the use of a manufactured home in which the axle and wheels have been removed and placed upon a concrete slab. This prohibition also specifically includes a manufactured home upon which the wheels have been left attached.

D. Highest Priority Areas Infrastructure Fund. The remaining non-TIRZ funds will be allocated to the Highest Priority Areas Infrastructure Fund, as follows:

- Secondary Target Areas: Balance of 10% of incremental revenue
- Non-Target Areas (including Voluntary Annexations): Balance of 20% of incremental revenue

For projects that are located over the Contributing Zone and contribute funds to the Highest Priority Areas Infrastructure Fund, funds may be utilized to pay for studies that protect the Edwards Aquifer Recharge Zone.

E. Limitations of TIF Program.

- Developer/Applicant/Partnership can only apply for one TIRZ per year.
- Lobbyist can only be involved with one TIRZ per year and fees for lobbying services are not an eligible project cost reimbursable with TIRZ revenues.
- Contracts for all Professional Services shall not include a contingency fee based on the tax increment generated by the TIRZ (professional services are defined in the TIF Act as those services provided by architects, engineers, planners, and attorneys).

F. Development Review Process. Only for Highest Priority Areas: once a TIRZ is designated, the City will guarantee the development review and permitting process will be completed within 30 days or less or no fees will be charged.

G. Environmental Remediation. If a TIRZ is designated by the City Council and environmental issues exist, the City will advocate quick remediation through the Federal Brownfield programs and other initiatives aimed at encouraging environmental reclamation in older areas.

H. Project Status. Because of the considerable time and resources required to process Applications for Redevelopment, it is the intent of the City to respond to Applications for the creation of Reinvestment Zones for the purpose of TIF **only if** an eligible project is in the advanced stages of development planning as evidenced by property control, and has met the criteria set forth in these Guidelines. Purely speculative projects will not be evaluated.

I. Market Feasibility Study. For all projects that may utilize TIF, interested parties will be required to submit to the City, as a part of the Application for Redevelopment, a market feasibility study. For projects proposing over 500 single-family housing units, the submission of a market feasibility study conducted by an outside consultant approved by the City will be

required. For projects proposing less than 500 single-family housing units, the 1999/2000 market study conducted by the San Antonio Housing Trust should be utilized. Furthermore, a market feasibility study must demonstrate, at a minimum, the following:

- Absorption rates
- Comparable sales
- Estimated values
- Current and potential lease space adjacent to property
- Reference to neighborhood plans

J. Operating Costs of Public Facilities. If public facilities are required to meet the demands of the new development, the City and the Applicant and/or Developer will negotiate the construction, operating costs, pro rata share and timing of payments for the facilities. Voluntary Annexation projects must demonstrate how City services can be financed and supported through the TIRZ and other potential revenue sources (e.g. public improvement districts). These terms will be delineated in the Development Agreement and/or any Interlocal Agreements.

SECTION VII. CONSTRUCTION OF PROJECT AND FINANCING COSTS

A. Eligible Project Costs. Eligible project costs are defined under Sections 311.002 and 311.008 of the TIF Act, and include:

1) capital costs

- actual costs of acquisitions and construction of:
 - ⇒ **public works and public improvements** (e.g., utilities, streets, street lights, water and sewer facilities, pedestrian malls/walkways, parks, flood and drainage facilities, educational facilities, and parking facilities)
 - ⇒ **new public buildings, structures and fixtures**
- actual costs of acquisition, demolition, alteration, remodeling, repair, or reconstruction of existing buildings, structures, and fixtures if said facilities are to be dedicated to the City as a public building, structure, or fixture
- actual costs of acquisition of land and equipment, if to be dedicated to the City as public land or equipment
- actual costs of clearing and grading of land
- applicable predevelopment fees

2) financing costs

For Bonds:

- interest paid to “holders of evidences of indebtedness or other obligations used to pay for project costs”
- premiums paid over the principal amount of the obligation because of the redemption of the obligations before maturity

For Private or Commercial Financing:

- interest may begin to accrue from the date the reimbursement request is approved by the City and the TIRZ Board; to be calculated based on the unpaid balance of those approved reimbursement requests

3) real property assembly costs

- 4) professional service costs for public improvements, subject to City approval and that meet City TIF contracting requirements:
 - architectural
 - planning
 - engineering
 - legal advice and services
- 5) imputed administrative costs, including reasonable charges of time spent by city employees in connection with the implementation of a project plan and initial start-up costs for other taxing entities.
- 6) relocation costs
- 7) organizational costs
 - environmental impact studies or other studies
 - publication and notification costs
 - costs of project plan implementation
- 8) interest before and during construction and for one year after completion, whether or not capitalized
- 9) cost of operating the Reinvestment Zone and project facilities

B. Financing of Project Costs. The City will require Applicants or petitioners to arrange and provide other forms of financing for the eligible project costs. Tax increments deposited into the TIF Fund may be used to reimburse a Developer over time for contributions made to the City for the construction of eligible project costs on a case-by-case basis, as well as interest and other financing costs associated with the contributions, as approved by the Reinvestment Zone board and City Council.

C. Risks to Developer. ANY CONTRIBUTIONS MADE BY APPLICANT OR OTHER DEVELOPER IN ANTICIPATION OF REIMBURSEMENT FROM TAX INCREMENTS SHALL NOT BE, NOR CONSTRUED TO BE, FINANCIAL OBLIGATIONS OF THE CITY OF SAN ANTONIO, OTHER TAXING ENTITIES, OR APPLICABLE REINVESTMENT ZONE BOARD. DEVELOPER SHALL BEAR ALL RISKS ASSOCIATED WITH REIMBURSEMENT, INCLUDING: INCORRECT ESTIMATES OF TAX INCREMENT, CHANGES IN TAX RATES OR TAX COLLECTIONS, CHANGES IN STATE LAW OR INTERPRETATIONS THEREOF, CHANGES IN MARKET OR ECONOMIC CONDITIONS IMPACTING THE PROJECT, CHANGES IN INTEREST RATES OR CAPITAL MARKETS, CHANGES IN DEVELOPMENT CODES REQUIREMENTS, DEFAULT BY TENANTS, UNANTICIPATED EFFECTS COVERED UNDER LEGAL DOCTRINE OF *FORCE MAJUERE*, AND/OR OTHER UNANTICIPATED FACTORS.

D. TIF Bonds. In certain instances and commensurate with the value of the project will the municipality consider the issuance of tax increment bonds. In such cases, risk of default and length of term should be reduced to the greatest extent feasible. Safety factors will be

included to minimize risk exposure, including a reserve fund, special covenants, and/or special structuring of the debt repayment schedule. The TIF Act limits the term of any TIF bonds to 20 years.

- E. Construction of Public Improvements.** Eligible Project Costs financed through TIF proceeds shall be publicly bid, use prevailing wages, and cause to be constructed by the Developer, *unless*: (1) tax increments go toward financing 30 percent or less of the cost for a specific public improvement; and (2) such public improvement is not a building of any sort. Under such a scenario, the private Developer could request to construct the public improvement, however, City approval is required. This provision requires compliance with Sections 212.071 and 212.072 of the Local Government Code and similar provisions.
- F. Calculation of Tax Increment.** The amount of a taxing unit's tax increment for a year is the amount of property taxes levied and collected by the unit for that year on the "captured" appraised value of real property taxable by the unit and located in the Reinvestment Zone. Captured appraised value is the total appraised value of all real property taxable by the unit and located in a Reinvestment Zone for that year less the total appraised value of taxable real property in the base year (year in which zone was designated by ordinance).
- G. Option to Negotiate Tax Increment.** The City and other local taxing entities reserve the option to jointly or independently negotiate the percentage of tax increment deposited in the TIF Fund for any Reinvestment Zone.
- H. Imputed Administrative and Operational Costs.** Following the designation of a Reinvestment Zone, a financing plan must be prepared and adopted by the Reinvestment Zone board of directors and approved by the City Council. In addition to the capital costs, other costs to be paid from TIRZ revenues include the initial start-up administrative costs of all participating taxing entities. The following describes the City's Administrative Fee Policy, which accounts for reasonable annual administration and operation expenses incurred by the City or Administrator fees, the City's financial advisor or its consultants.
- ☐ **Administrative Fees applied for each TIRZ:**
- **First year administrative fees only:** 10% of total projected revenues for each newly created TIRZ or \$75,000; whichever is the lesser of the two. These revenues will be divided among all participating taxing entities and will be used to support first year administrative costs of the project.
 - **Second year administrative fees – end of TIRZ:** 5% of projected annual revenues of the project or \$50,000, whichever is the lesser of the two.

SECTION VIII. ADDITIONAL GUIDELINES

- A. Cost-Benefit Analysis.** A cost-benefit analysis relevant to the City must be completed prior to any action on a Reinvestment Zone requested to support proposed redevelopment projects. The City or its advisor or agent may conduct the analysis in a manner reflective of the current incremental cost-benefit analysis being utilized by the City. The City may determine not to approve the designation of a project or area as a Reinvestment Zone for the purpose of TIF for which the analysis shows that the costs exceed the benefits.

Furthermore, each Cost-benefit analysis shall be reviewed by City staff using a Quantitative and Qualitative assessment process in order to identify the costs associated with the delivery of City services and the implications of broader community benefits and revitalization goals. In the event that revenue shortfalls are projected for service costs, City staff will analyze the qualitative benefits of these projects with respect to compatibility with the City's Master Plan policies, such as: mixed-income, mixed-use, new urbanism concepts, and infill development. If projects do not meet these Master Plan policy goals, further review of the project financing will be undertaken, which may result in at least one of the following: (1) Greater Developer contribution; (2) City reduced participation; and/or (3) Redefining the scope of the project.

- B. Content of Application.** The Application for Redevelopment requesting TIF shall consist of a completed current Application form accompanied by the appropriate non-refundable Application fee and the petition for creation of the Reinvestment Zone, unless the Application is submitted in response to the City's Request for Proposals for a specific project.
- C. Public Hearing and Notices.** The TIF Act states the governing body of a city may not adopt an ordinance designating a Reinvestment Zone until it has held a public hearing at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing shall be clearly posted or identified on the City Council Agenda at least 7 days prior to the hearing and published in a local newspaper. The presiding officers of eligible jurisdictions shall be notified in writing at least 7 days prior to the hearing. Although the TIF Act allows areas currently designated as either: (1) a federal Empowerment Zone or Enterprise Community, (2) a designated State Enterprise Zone, or (3) a Defense Economic Adjustment Zone which have already received designation as Reinvestment Zone, a Public Hearing may still be held at the discretion of the City.
- D. Interlocal and Development Agreement.** In order to enter into an Interlocal Agreement with other taxing entities or a Development Agreement with a Developer for TIF, the City must find that the terms of the proposed agreement meet these Guidelines.
- E. Roles and Responsibilities.** The roles and responsibilities of the parties involved with TIF-related projects are as follows:
- City:** Administration of the TIF process, including but not limited to: Application review and analysis, statutory presentations, TIRZ Board administration, posting of notices of TIRZ Board meetings, drafting agendas for TIRZ Board meetings, TIF fund administration, and issue reimbursement(s) for public improvement costs completed and submitted, upon approval of the TIRZ Board.
- TIRZ Board:** To work with Developer and provide direction to the TIF Unit on issues related to respective TIF project and provide accurate and quarterly reports (Project Status Reports) to TIF Unit (due the 15th of each of the following, January, April, July and October) for the proceeding quarter that include, but are not limited to: copies of publicly bid documents for public improvements, detailed invoices related to project costs, disclosure of any relevant changes in project, ownership, financial stability, or any anticipated assignment. Furthermore, a TIRZ Board must adopt and adhere to bylaws by which it is governed, comply with Robert's Rules of Order and all City Resolutions and Ordinances for Boards and Commissions.

- F. Administration.** All Reinvestment Zone proposals or petitions and Applications properly submitted will be reviewed, processed, and coordinated by the City's Neighborhood Action Department TIF Unit, other City departments, and/or its consultants. The City may act as the administrator of all Reinvestment Zones for the purposes of reviewing compliance with any agreements between the City, other taxing entities and/or Developer, as well as providing tax increments to Developers for the purpose of reimbursement for completed public improvements as approved by the respective TIRZ Board.
- G. Reinvestment Zone Boards.** As required under The TIF Act, the City Council will establish a Reinvestment Zone board of directors for each and every designated TIRZ. Other taxing entities may appoint at least one representative to each zone board, and the composition of each Reinvestment Zone board will comply with provisions of Section 311.0091 of said Chapter.
- H. Assignment.** Any agreement entered into between the City and Reinvestment Zone board with a private Developer may be assignable to a new owner only with prior City Council approval.
- I. Severability.** In the event that any section, subsection, paragraph, subparagraph, sentence, phrase or work herein is held invalid, illegal, or unenforceable, the balance of these Guidelines shall stand, shall be enforceable and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase or word. In such event there shall be substituted for such deleted provisions a provision as similar as possible in terms and in effect to such deleted provision that is valid, legal and enforceable.
- J. Effective Date of Guidelines.** These amended Guidelines are effective through January 31, 2006. Until that time, these amended Guidelines may be amended or repealed only by a vote of a majority of the City Council.
- K. Effective Date of TIRZ:** Each TIRZ will take effect immediately upon passage of ordinance as required under the TIF Act, Section 311.004.

APPENDIX A

DEFINITIONS

- A. Public Improvement(s): Permanent improvements that are beneficial and accessible to the general public contingent upon approval by the City, such as streets, curbs, drainage, sidewalks, parks, etc.
- B. “Defense Economic Readjustment Zone” is an economic incentive for business recruitment and job creation in adversely impacted defense-dependent communities. The Defense Economic Readjustment Zone Program is a State program modeled after the Texas Enterprise Zone Program. The zone area must be greater than one square mile but less than 20 square miles; be located within an adversely affected defense-dependent community; and have a former or existing military installation account for 50% of its total area. The zone is designated for seven years. The zone is automatically a Reinvestment Zone.
- C. “Enterprise Zone” is a local-option, economic development tool that allows a community to partner with the State to offer a package of local and state tax and regulatory benefits to new or expanding businesses in distressed areas. More specifically, a zone is a geographic area nominated by a city or county or a combination of cities and/or counties through an application to the State Department of Economic Development. The area must meet at least one of two possible primary distress criteria (high unemployment or population loss) and one of possible eight secondary distress criteria. The area must have a continuous boundary and be at least one square mile in size, but not larger than 10 square miles or 5% of the governing body’s/bodies’ jurisdiction (up to 20 square miles), whichever is larger. The designation period for a zone is seven years. An enterprise zone is automatically a Reinvestment Zone.
- D. “Real Property” means land and its improvements.
- E. “Reinvestment Zone” is an area where the city has decided to influence development patterns and attract major investments that will contribute to the development of the city through the use of incentives for specified real property improvements.
- F. “Retail Industry Facility” means buildings and structures, including fixed machinery and equipment, used or to be used for the sale of commodities or goods to ultimate consumers.
- G. “Targeted Industries” are those businesses that the City has identified as desirable businesses that make job-producing investment in the city limits of San Antonio, that diversify the local economy, expand the tax base and create or retain quality jobs. Those businesses include aviation, biotechnology, communications (customer call centers, office operations, fiber optic installations, electronic device manufacturing, etc.), corporate-level headquarters/offices, high technology, information/business services (customer call centers for financial, maintenance, manufacturing, distribution, etc.), manufacturing, research and development, warehousing/distribution, and defense-related operations. See definitions below:
- H. “Aviation Industry Facility” means buildings and structures within the city limits of San Antonio, including fixed machinery and equipment used or to be used in the operation,

maintenance, modification, service, research and development, manufacture, and storage of aircraft or aircraft parts or the sale of aircraft or aircraft parts

- I. “Biomedical/Biotech Research Facility” means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production process thereto; may include medical and pharmaceutical products.
- J. “High-Technology Facility” means buildings and structures, including fixed machinery and equipment, used in the manufacturing of computer equipment, related equipment, pharmaceutical, or communications equipment and other high-technology related Products. Includes such areas as microchip manufacturing and electronic equipment manufacturing.
- K. “Lobbyist” means a person who communicates, either verbally or in writing with a city official in an effort to influence or persuade the official regarding a municipal question. For further information on the City’s Ethics Code and Lobbying restrictions, please visit the City’s web page at: <http://www.sanantonio.gov/ecfl/index-lobbyists.asp>.
- L. “Manufacturing Facility” means building and structures, including fixed machinery and equipment, used or to be used for the mechanical or chemical transformation of materials or substances into new products. Establishments engaged in assembling component parts of manufactured products are also considered manufacturing.
- M. “Neighborhood or Community Plan” means a plan developed by is community stakeholders (residents, community groups, property owners, businesses, developers, investors, etc.) that address issues, develop goals, and outlines action steps. Plans include three basic elements: land use, transportation networks, and community facilities. Refer to Appendix G.
- N. “Partnership” as defined by *Black’s Law Dictionary*, sixth edition, means a voluntary contract between two or more competent persons to place their money, effects, labor and skill, or some or all of them, in lawful commerce or business, with the understanding that there shall be a proportional sharing of the profits and losses between them. The term also means an association of two or more persons to carry on, as co-owners, a business for profit. For income tax purposes, a partnership includes a syndicate, group, pool, or joint venture, as well as ordinary partnerships. In an ordinary partnership, two or more parties combine capital and/or services to carry on a business for profit as co-owners. *Examples: family, general, implied, limited, partnerships by estoppel, partnerships in commendam, secret, special, subpartnerships, tiered partnerships, universal partnerships.*
- O. “Regional Distribution Facility” means buildings and structures, including fixed machinery and equipment, used or to be used primarily to receive, store, service, or distribute goods or materials, where a majority of the goods or services are distributed to points at least 50 miles beyond the San Antonio city limits.
- P. “Research Facility” means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production process thereto.

APPENDIX B

TARGETED AREAS MAPS FOR TIF/TIRZs

APPENDIX C

APPLICATION FOR REDEVELOPMENT CHECKLIST RELATED TO TIF USE

See Section I. Paragraph M for more details

- ☐ Submission of appropriate non-refundable Application fee
- ☐ Demonstrate financial wherewithal to meet project costs and complete project (i.e. financial statement, complete Sources and Uses budget, Letter of Credit from Bank)
- ☐ Submit a completed market feasibility study approved by the City
- ☐ Submit a cost benefit analysis
- ☐ Identify gap in financing for project
- ☐ Delineate in detail, the Developer equity contribution into project illustrating proposed financial structure
- ☐ Identify proposed security, collateralization, or credit enhancement
- ☐ Demonstrate commitment to the quality of development, the project area, and project completion
- ☐ Submit detailed pro formas for the proposed project, including secured participation levels from each taxing entity.
- ☐ Submit a Phase I Environmental Site Assessment of the proposed area in accordance with guidelines stated in Section I. M of these guidelines.
- ☐ Demonstrate previous experience developing similar scale and type of project
- ☐ Submit a detailed listing of public improvements with estimated costs (eligibility of said list is contingent upon City approval)
- ☐
- ☐ Submit a schedule indicating timing of public improvements (i.e. commencement and completion dates) Have secured commitments from other taxing entities to participate in proposed TIF project, specific to term and participation percentage, in the form of a letter of support from the respective elected or board official(s) of the taxing entity.
- ☐ Agree to pay for reasonable professional fees retained by the City related to the project.
- ☐ Completion of City's Ethics Disclosure form

I, (Applicant's name) _____ hereby certify that I have submitted to the City of San Antonio the above-mentioned items as required under the 2004 Guidelines.

Name (printed)

Signature

Title

Date

APPENDIX D

APPLICATION FOR REDEVELOPMENT

APPENDIX E

SAMPLE DEVELOPMENT AGREEMENT

APPENDIX F

SAMPLE INTERLOCAL AGREEMENT

APPENDIX G

RESOURCES

Indicators (examples) of blight, underdeveloped, unproductive, and/or economically distressed areas:

Census tracts or other verifiable data detailing:

- **Smaller increase in absolute values over the last 5 years than City median**
- **Growth in the percentage of housing units in the past 5 years < city median percentage growth in housing units in the same time period**
- **Percentage living at poverty level more than City Poverty Rate (currently 17%)**
- **Percentage of people over 25 years old without High School degree more than the City average (currently 23.2%)**
- **Population increased less than 14% over the last ten years**
- **Unemployment rate higher than City Median of 6.1%**
- **Photo and documentation (including individual photos of structures) showing a substantial number of substandard, slum, deteriorated, or deteriorating structures**
- **High incidence of Code Compliance issues**
- **High incidence of crime**
- **Project site is located in CDBG eligible census tracts**
- **Project site is located High-health risk Zip code as defined by most recent Metropolitan Health District report [currently 78201, 07, 28, 37, 27, 42, 11, 10, 23]**

Helpful Links:

- **CRAG Report:** <http://www.sanantonio.gov/crag/>
- **Housing Master Plan & Southside Initiative:** <http://www.sanantonio.gov/planning/>
- **Use Patterns & Special Districts:**
 - http://www.sanantonio.gov/dsd/pdf/udc_article2.pdf
 - http://www.sanantonio.gov/dsd/pdf/udc_article3division5.pdf
 - http://www.sanantonio.gov/dsd/pdf/udc_ordinance98091.pdf
- **Empowerment Zone:** <http://www.sanantonio.gov/edd/empowersa.asp>
- **Neighborhood Plans:** <http://www.sanantonio.gov/planning/neighborhoods.asp>
- **Housing & Community Development:** <http://www.sanantonio.gov/hcd/>